

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EDVIN RUSIS, HENRY GERRITS,
PHIL MCGONEGAL, DAVID HO
ENG, BRIAN HAUPT, PHILIP
MONSON, CLAUDIA ZIEGLER,
SALLY GEHRING, and JOHN MASON,
individually and on behalf of all other
similarly situated individuals,

Plaintiffs,

V.

INTERNATIONAL BUSINESS
MACHINES CORP.

Defendant.

Civil Action No. 1:18-cv-08434

DECLARATION OF SHANNON LISS-RIORDAN

1. I am lead counsel for the Plaintiff in the above-captioned matter.
2. Our firm represents hundreds of individuals who are pursuing or have pursued ADEA claims against IBM, in this case, other federal court cases, and in individual arbitration, alleging that they fell victim to IBM's years-long companywide discriminatory scheme implemented by IBM's top management to build a younger workforce, by reducing its population of older workers in order to make room for the hiring of younger workers.
3. Several lead plaintiffs and opt-in plaintiffs in this case, including Sally Gehring, Robert Gasiorowski, Mark Johnson, and Andrew Peavy, were charging parties in the EEOC investigation of IBM that led to its September 3, 2020, determination that found

reasonable cause to believe that IBM engaged in classwide age discrimination. A copy of the EEOC's probable cause determination is attached hereto as **Exhibit 1**.

4. Attached hereto as **Exhibit 2** is a copy of the EEOC Charge filed by Edwin Rusis.

5. Attached hereto as **Exhibit 3** is a copy of the EEOC Charge filed by Henry Gerrits.

6. Attached hereto as **Exhibit 4** is a copy of the EEOC Charge filed by Phil McGonegal.

7. Attached hereto as **Exhibit 5** is a copy of an email sent by EEOC employee Deneen Hodges to Lichten & Liss-Riordan attorney Thomas Fowler and former paralegal Kelsey McCarty on August 6, 2020.

8. Attached hereto as **Exhibit 6** is a copy of a Fax Confirmation obtained by staff in the office of Lichten & Liss-Riordan, P.C. confirming that the EEOC Charge was successfully faxed to the Atlanta office of the EEOC on July 2, 2018.

9. Attached hereto as **Exhibit 7** is a copy of the EEOC Charge filed by Brian Haupt.

10. Attached hereto as **Exhibit 8** is a copy of the EEOC Charge filed by Philip Monson.

11. Attached hereto as **Exhibit 9** is a copy of the EEOC Charge filed by Sally Gehring.

12. Attached hereto as **Exhibit 10** is a copy of the EEOC Charge filed by Claudia Ziegler.

13. Attached hereto as **Exhibit 11** are copies of 19 EEOC charges that were included in the September 3, 2020, EEOC Letter of Determination and were filed after July 10, 2018.

14. Attached hereto as **Exhibit 12** are copies of 19 EEOC charges that IBM produced in this litigation, which were filed after July 10, 2018 and were not included in the September 3, 2020, EEOC Letter of Determination.

15. Attached hereto as **Exhibit 13** is a copy of a Notice of Right to Sue that the EEOC issued to Plaintiff Sally Gehring on July 19, 2021.

16. Attached hereto as **Exhibit 14** is a copy of a Letter from the EEOC to opt-in Plaintiff Robert Gasiorowski with an accompanying Notice of Right to Sue, issued on July 30, 2021.

17. Attached hereto as **Exhibit 15** is a copy of the EEOC Charge filed by Luvi Dye on December 18, 2015, produced by IBM in this matter.

18. Attached hereto as **Exhibit 16** is a copy of the EEOC Charge filed by Margaret Ahlders on April 27, 2016, produced by IBM in this matter.

19. Lichten & Liss-Riordan also represents the named Plaintiffs in Wagner et al. v. International Business Machines Corp., Civ. Act. No. 1:21-cv-09443 (S.D.N.Y. 2021).

20. Attached hereto as **Exhibit 17** is a copy of the EEOC Charge filed by Bobbie Wagner on October 6, 2021.

21. Attached hereto as **Exhibit 18** is a copy of the EEOC Charged filed by Chadwick Inniss on April 23, 2021.

22. Attached hereto as **Exhibit 19** is a copy of the Complaint filed in Leong v. International Business Machines Corp., Civ. Act. No. 3:21-cv-01291-VC (N.D. Cal. 2021).

23. Attached hereto as **Exhibit 20** are excerpts from the transcript of the deposition of Phil McGonegal taken by IBM in this matter.

24. Attached hereto as **Exhibit 21** is a copy of Plaintiff McGonegal's IBM employee profile.

25. Attached hereto as **Exhibit 22** is a copy of Plaintiff McGonegal's resume.

26. Attached hereto as **Exhibit 23** are emails from Plaintiff Phil McGonegal to Denise Tabush.

27. Attached hereto as **Exhibit 24** is an email from Plaintiff Phil McGonegal submitting an Open Door Appeal.

28. Attached hereto as **Exhibit 25** is an email from Plaintiff Phil McGonegal to Russ Mandel.

29. Attached hereto as **Exhibit 26** is the declaration of opt-in Plaintiff Humberto Lima.

30. Attached hereto as **Exhibit 27** is a copy of the EEOC Charge filed by opt-in Plaintiff Wlateral Bayerle on June 13, 2018.

31. Attached hereto as **Exhibit 28** is a copy of opt-in Plaintiff Walter Bayerle's separation agreement.

32. Attached hereto as **Exhibit 29** is a copy of a Notice of Right to Sue issued by the EEOC to opt-in Plaintiff Walter Bayerle on September 5, 2020.

33. Attached hereto as **Exhibit 30** is the declaration of opt-in Plaintiff Catherine Rodgers.

34. Attached hereto as **Exhibit 31** is the declaration of Mark Mausert.

35. Attached hereto as **Exhibit 32** are the interrogatory responses of opt-in Plaintiff Stacy Briscoe.

36. Attached hereto as **Exhibit 33** are the interrogatory responses of opt-in Plaintiff W. Kirk Greer.

37. Attached hereto as **Exhibit 34** are the interrogatory responses of opt-in Plaintiff Kevin Meleski.

38. Attached hereto as **Exhibit 35** are the interrogatory responses of opt-in Plaintiff Robert Pinciak.

Signed under the pains and penalties of perjury this 1st day of March, 2022.

/s/ Shannon Liss-Riordan
Shannon Liss-Riordan

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2022, a true and accurate copy of the foregoing was filed via this Court's CM/ECF system.

/s/ Shannon Liss-Riordan
Shannon Liss-Riordan